

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Federal-State Joint Board on
Universal Service

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CC Docket No. 96-45

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RESPONSE TO BUREAU REQUEST
FOR FURTHER COMMENTS

The United States Distance Learning Association ("USDLA"), by its undersigned counsel, hereby submits the following further comments in the above referenced docket in response to the Public Notice requesting such comments issued by the Common Carrier Bureau at the request of the staff of the Federal-State Joint Board on July 3, 1996.¹ In light of USDLA's specific interest in this proceeding regarding access to advanced telecommunications services for schools, libraries and health care facilities, USDLA herein restricts its supplementary comments to that portion of the request for comments which addresses "schools, libraries, health care providers." In accordance with the Bureau's Public Notice, we set forth below the questions to which we are responding, followed by the comments given.

¹ DA 96-1078.

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Question 6:

Should the services or functionalities eligible for discounts be specifically limited and identified, or should the discount apply to all available services?

Section 254(h)(2) of the Communications Act, as amended (the "Act"),² calls for the Commission to establish rules to enhance access to advanced telecommunications and information services for all public institutional telecommunications users "to the extent technically feasible and economically reasonable." USDLA recognizes, as this statutory provision implies, the enormous costs which securing access to advanced telecommunications services for eligible schools, libraries and health care facilities as called for by Section 254(h) of the Act will portend. In order to enable the commercial marketplace to absorb these costs efficiently, USDLA has proposed a phased approach for the provision to eligible institutions of requisite services, hardware and software.³ This proposal recognizes both that priorities should be adopted for which technologies public telecommunications users have most pressing need, and that the discounts at which these technologies and services should be offered can reasonably vary, including the provision of "core" requirements without charge.

Since the filing of USDLA's initial Comments, Congressional and Administration support for a no-cost "education-rate" or "E-Rate" for

² 47 U.S.C. §254(h)(2).

³ USDLA Comments, filed April 12, 1996, at 4-14.

telecommunications services has been forthcoming. Congressman Edward Markey of the House Commerce Committee Subcommittee on Telecommunications and Finance has espoused to the Commission a free E-Rate for "core" telecommunications services. More recently, Vice President Al Gore and Secretary of Education Richard Riley have endorsed the provision of free E-Rate for basic telecommunication access enabling schools to link-up to the Internet.

USDLA applauds and supports this call for a no-cost rate for providing access to at least basic, state-of-the-art telecommunications services for eligible institutions. As regards more enhanced forms of service access addressed in USDLA's Comments, USDLA submits that the spirit and intent of the Act require that all identified services and functionalities, including broadband services, should be eligible for discounts, but that the degree of such discount may vary. As USDLA has previously submitted,⁴ the Commission should adopt, as a target, that such discount rates will never be less than 45 percent from the lowest competitive interstate and intrastate telephone rate.

Question 7:

Does Section 254(h) contemplate that inside wiring or other internal connections to classrooms may be eligible for universal service support of telecommunications services provided to schools and libraries? If so, what is the estimated cost of the inside wiring and other internal connections?

⁴ Comments, at 15.

Section 254 of the Act contains no definition which excludes inside wiring and facilities from the scope of universal service. As USDLA has previously submitted,⁵ any effort to distinguish between service access and equipment for universal support purposes could be an artificial exercise designed to frustrate the effectiveness of the universal service concept. Moreover, earlier applications of universal service principals by the Commission, like the Link Up America program, have encompassed the provision of both basic equipment and installation services. The discount methodology advocated by USDLA in its Comments would encompass hardware, related technical services, and recurring maintenance services, whether inside or outside the eligible institution's premises.

Question 8:

To what extent should the provisions of Sections 706 and 708 be considered by the Joint Board and be relied upon to provide advanced services to schools, libraries and health care providers?

USDLA cautions that these ancillary new provisions of the Act should not be materially relied upon by the Joint Board in formulating its recommendations for the provision of advances services to schools, libraries and health care providers. At the outset, USDLA notes that the Joint Board's statutory authority is found in Section 254 of the Act, governing universal services, and not in either of these other provisions. Moreover, these two provisions both look to longer term solutions than the timetable

⁵ Reply Comments, at 5.

established in Section 254 for the Commission to formulate rules supporting access to advanced telecommunications services for public institutional telecommunications users.

While the objectives addressed in Section 706(a) of encouraging the deployment "on a reasonable and timely basis" of advanced telecommunications capability to elementary and secondary schools and classrooms is a laudable one which USDLA supports, the time frame anticipated for Commission action under this provision is more protracted -- up to 30 months from passage of the 1996 Telecommunications Reform Act -- than is that directed by Congress for the more specific and immediate universal service objectives set forth in Section 254. As a result, by relying on the contents of Section 706, the efforts of the Joint Board could be unnecessarily confused by the varying directives between that provision and Section 254. It would appear to USDLA that the Commission will be employing Section 706 -- for which no rulemaking timetable has been established yet -- as a broader mandate to examine the effectiveness of universal service and other principles of the 1996 Reform Act after they have had a reasonable opportunity to operate.

Section 708 authorizes federal agencies to provide assistance to the National Education Technology Funding Corporation ("NETFC") in furtherance of its chartered goals. While these goals include support for elementary and secondary schools' and public libraries' telecommunications needs, the Act contains no suggestion that the work of NETFC is intended to affect the Joint Board's or Commission's mandates under Section 254. Again, NETFC is not made subject to any specific

timetable for its work, but will be acting as a private sector vehicle *in support of* the Commission's efforts in universal service and other fields.

Question 10

Should the resale prohibition in Section 254(h)(3) be construed to prohibit only the resale of services to the public for profit, and should it be construed so as to permit end user cost based fees for services? Would construction in this manner facilitate community networks and/or aggregation of purchasing power?

As indicated in USDLA's initial Comments,⁶ USDLA views Section 254(h)(3) as designed to prohibit abuse of subsidization of access services provided to eligible institutions. With this in mind, USDLA would suggest that fulfillment of the purpose of this provision will not turn on whether resale is allowed for profit or at cost, but whether it advances a compatible, educational objective. Thus, as USDLA has previously observed, in implementing this provision, the Commission should be careful not to discourage the formation of "partnerships between schools, libraries and their communities," and that traditional facility-sharing arrangements between secondary schools and community colleges for cost-saving purposes in particular should be safeguarded.

⁶ Comments, at 20

Question 11:

If the answer to the first question in number 10 is "yes," should the discounts be available only for the traffic or network usage attributable to the educational entities that qualify for the Section 254 discounts?

To the extent that community networks which include non-eligible institutions spur the penetration of advanced telecommunications services for schools and libraries in areas where they might not otherwise be made available, or where their entry would otherwise be delayed, USDLA is of the view that calculation of universal service discounts for that portion of the network usage attributable to qualified educational entities would be one constructive and legitimate interpretation of the Act.

Question 14:

If the discounts are disbursed as block grants to states or as direct billing credits for schools, libraries, and health care providers, what, if any, measures should be implemented to assure that the funds allocated for discounts are used for their intended purposes?

USDLA supports the suggestion made in the NPRM⁷ that written certification by an educational authority of appropriate seniority constitute a mandatory element of all requests for supported universal services. It would seem equally appropriate for institutions which benefit from universal service supports to be subject to periodic audit requirements pursuant to Commission rules.

⁷ NPRM at ¶ 84; Comments, at 20.

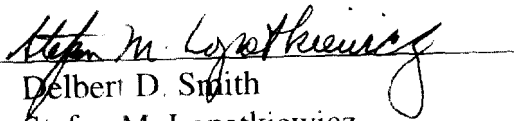
Question 22:

Should separate funding mechanisms be established for schools and libraries and for rural health care providers?

The Act does not appear to anticipate the establishment of separate funds and USDLA sees no efficacy for separate funds at this time

Respectfully submitted.

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August 2, 1996

CERTIFICATE OF SERVICE

I, Brigitte L. Adams, hereby certify that the foregoing "*Reply Comments of U.S. Distance Learning Association*" was sent, this 2nd of August 1996, by U.S. first class mail, postage prepaid, to the following:

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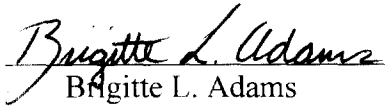
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